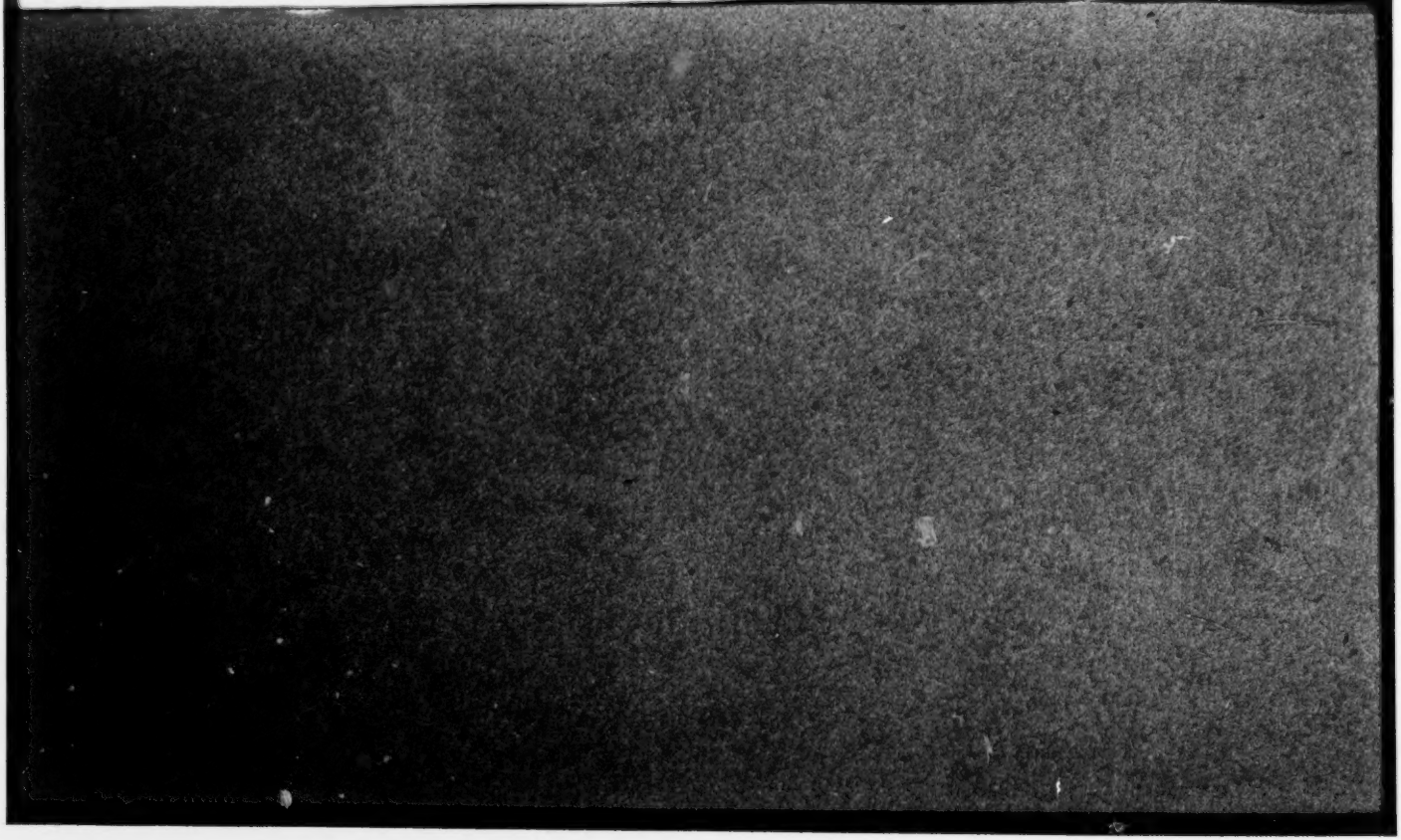


(18,768.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903.

No. 180.

STATE OF MISSOURI AT THE RELATION OF WILLIAM PRESTON HILL, PLAINTIFF IN ERROR,

vs.

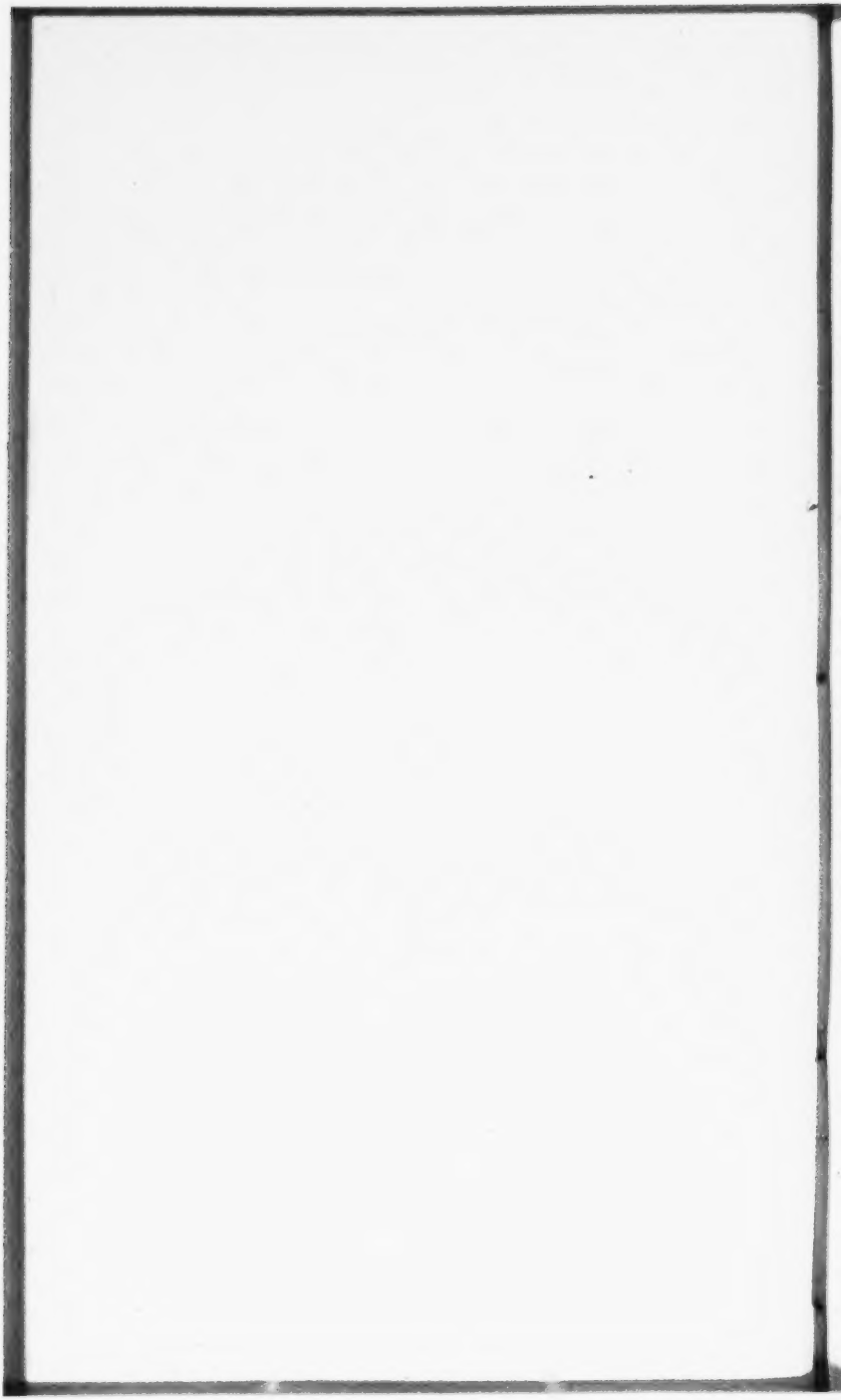
ALEXANDER M. DOCKERY, SAM B. COOK, B. P. WILLIAMS, ALBERT O. ALLEN, EDWARD C. CROW, AND THE STATE BOARD OF EQUALIZATION.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JUNE 19, 1903.



1 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Missouri, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of Missouri, before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between State of Missouri at the relation of William Preston Hill, relator, and Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow and the State Board of Equalization, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said State of Missouri at the relation of William Preston Hill as by its complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, D. C. within thirty days from the date of the citation in this cause in the said Supreme Court to be then and there held, that the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness, the Honorable Melville Weston Fuller, Chief Justice of the Supreme Court of the United States, this tenth day of December, in the year of our Lord one thousand nine hundred and two.

Issued at office in the city of Jefferson with the seal of the circuit court of the United States for the central division of the western district of Missouri, dated as aforesaid.

{ Seal of the United States Circuit Court for the Western District of Missouri, Central Division. }

H. C. GEISBERG,
Clerk of said Circuit Court.

Allowed by—
G. D. BURGESS,
Judge and Chief Justice of the Supreme Court of Missouri.

1—180

1½ *Return to Writ.*

STATE OF MISSOURI, *set:*

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States a duly certified transcript of the record and proceedings in the within entitled case together with all things concerning the same.

In witness whereof, I hereto subscribe my name and affix the seal of the supreme court of the State of Missouri, at the city of Jefferson, this 16th day of December, 1902.

Seal of the Supreme Court of Missouri.

JNO. R. GREEN, *Clerk.*

2 The United States of America to Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow, and State Board of Equalization, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, at the city of Washington, D. C. thirty days from and after the day this citation bears date, pursuant to a writ of error, filed in the clerk's office of the supreme court of the State of Missouri, wherein State of Missouri at the relation of William Preston Hill, relator, is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Gavon D. Burgess, chief justice and judge of the supreme court of the State of Missouri, this tenth day of December in the year of our Lord one thousand nine hundred and two.

G. D. BURGESS,
Chief Justice and Judge of the Supreme Court of the State of Missouri.

2½ [Endorsed:] No. —. United States Supreme Court, State of Missouri at the relation of William Preston Hill, relator, plaintiff in error, *vs.* Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow and State Board of Equalization, defendants in error. Citation. Filed — day of —— 189— —— —— clerk.

Service of copy of within acknowledged this 10th day of December 1902.

EDWARD C. CROW,
Att'yr Gen'l of Mo.

3 In the Supreme Court of the United States, October Term, 1902.

STATE OF MISSOURI at the Relation of WILLIAM PRESTON Hill, Plaintiff in Error,
vs.
ALEXANDER M. DOCKERY, SAM B. COOK, R. P. WILLIAMS, Albert O. Allen, Edward C. Crow, and State Board of Equalization, Defendants in Error. } No. —.

Comes now State of Missouri at the relation of William Preston Hill, plaintiff in error, by its counsel, and respectfully represents that it feels itself to be aggrieved by the proceedings and judgment of the supreme court of the State of Missouri, in the above entitled cause, and assigns error thereto as follows:

1. The court erred in said cause in sustaining the motion to quash the alternative writ of mandamus issued therein, filed therein by defendants in error, and in quashing said alternative writ of mandamus, and in rendering judgment therein in favor of defendants in error, respondents in said cause.

2. The court erred in said cause in not overruling the motion to quash the alternative writ of mandamus issued therein, filed therein by defendants in error, respondents in said cause.

3. The court erred in said cause in rendering judgment therein in favor of the defendants in error, respondents in said cause, and denying to plaintiff in error any relief from the wrong and injury complained of in the petition for and the alternative writ of mandamus issued therein on said petition.

4. The court erred in said cause in not rendering judgment therein in favor of plaintiff in error, and in not granting to plaintiff in error relief from the wrong and injury complained of in the petition for and the alternative writ of mandamus issued therein on said petition.

STATE OF MISSOURI,
At the Relation of William Preston Hill,
By FRANK K. RYAN,
E. P. JOHNSON, *Attorneys.*

[Endorsed:] Filed Dec. 11, 1902. Jno. R. Green, clerk.

4 In the Supreme Court of Missouri, October Term, 1902. Court in Banc.

STATE OF MISSOURI, *set:*

Be it remembered, that heretofore to-wit, on the 29th day of September, 1902, there was filed in the office of the clerk of the supreme court of the State of Missouri, a petition for an alternative writ of mandamus, wherein The State of Missouri at the relation of William Preston Hill was relator and Alexander M. Dockery, Sam. B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow and The State

Board of Equalization were respondents, which said petition is in words and figures as follows, viz:

Petition for Mandamus.

In the Supreme Court of Missouri.

STATE OF MISSOURI, *ss:*

In the Matter of WILLIAM PRESTON HILL, *Ex Parte.*

To the honorable judges of said court:

Your petitioner, William Preston Hill, respectfully represents that he is a citizen of the State of Missouri and a resident of the city of St. Louis therein, and a tax payer in said city and State. That prior to and on the first day of June, 1901, he was and still is the owner of real estate and personal property situated in said city, of the actual cash value of $104,070.00, and that the same has heretofore been and still is assessed for taxation for State, city and school purposes by the board of assessors for said city of St. Louis, for the year 1902, at the said full cash value of the same, and on which said property he has heretofore paid and the same is now liable for, an annual tax in the sum of $2029.36, for the latter year.

That Alexander M. Dockery, Sam. B. Cook, R. P. Williams, Albert O. Allen, and Edward C. Crow, are now and were at all times hereinafter mentioned, the persons composing the State board of equalization of the State of Missouri. That in pursuance of law said
5 persons, on the 21st day of April, 1902, being the third Monday of said month, met at the city of Jefferson, in the State of Missouri, as the State board of equalization of said State, and thereupon each of them took and subscribed an oath that they would support the Constitution of the United States and of the State of Missouri, and faithfully demean themselves in office as members of the State board of equalization, and that they would to the best of their knowledge and ability faithfully and impartially assess, adjust and equalize the aggregate valuation of the various corporations liable to taxation in the State of Missouri for taxes for the year 1902. That said persons as such board of equalization of the State of Missouri thereupon organized by the election of said Alexander M. Dockery, president, and said Sam. B. Cook, vice president, and said Albert O. Allen, entered upon the duties of secretary thereof, and said board of equalization thereupon entered upon the discharge of its duties as such, whereupon said secretary presented to said board of equalization a communication from the State auditor of said State, laying before said State board of equalization the returns made to his office by the president or other chief officer of the various corporations liable to taxation in the State of Missouri, and the certificates made by the county clerks relating thereto.

Your petitioner further states that on said first day of June, 1901, the following-named corporations were and still are companies re-

spectively owning and operating railroads, street railroads, bridges, telegraphs, telephones and doing express business in the city of St. Louis and State of Missouri, and each one of them then had a chief office and place of business in said city of St. Louis, and then owned property, both tangible and intangible in said city and State, consisting of real and personal property and franchises, and all of which was subject to taxation in said city and State and assessable for that purpose by said State board of equalization only. That the aggregate total cash value of such property of each of said corporations and companies in said State, assessable by said State board of equalization only, was and is such as to make the amount which should have been assessed to and apportioned from
6 each of them by said State board of equalization, to said city of St. Louis, to be of the total cash value as follows:

Railroad companies.

Missouri Pacific Railway Company and branches, value of said property	$1,415,477.12
Manufacturers Railway Company, value of said property	307,479.96
St. Louis, Iron Mountain & Southern Railway Company, value of said property	570,204.80
St. Louis, Kansas City & Colorado Railroad Company, value of said property	19,762.56
St. Louis, Keokuk & Northwestern Railroad Company, value of said property	965,664.00
St. Louis Merchants Bridge Terminal Railway Company, value of said property	1,727,668.76
St. Louis & San Francisco Railroad Company, value of said property	602,748.80
St. Louis Transfer Railway Company, value of said property	1,981,958.12
Terminal Railroad Association of St. Louis, value of said property	10,379,301.45
Wabash Railroad Company and branch, value of said property	1,422,355.08
Wiggins Ferry Company, value of said property	4,308,076.60

Street railroads.

St. Louis & Suburban Railway Company, value of said property	3,622,350.50
St. Louis & Meramec River Railroad Company, value of said property	733,433.08
St. Louis & East St. Louis Electric Railway Company, value of said property	628,187.51
United Railways Company, St. Louis Transit Company, lessee, value of said property	53,310,095.33

Bridge companies.

St. Louis Merchants Bridge Company, value of said property	1,800,000.00
St. Louis Bridge Company, value of said property	5,100,000.00

Telephone companies.

Kinloch Telephone Company, value of said property	2,250,000.00
Bell Telephone Company, value of said property	2,469,404.16

7

Telegraph companies.

Pacific Mutual Telegraph Company, value of said property	$409,946.34
Western Union Telegraph Company, value of said property	195,179.04

Express companies.

Adams Express Company, value of said property	4,560.
American Express Company, value of said property	2,340.
Pacific Express Company, value of said property	21,830.
Wells-Fargo Express Company, value of said property	5,052.

That upon the qualification and organization of said persons as the State board of equalization as aforesaid, it became and was their duty, and the duty of said State board of equalization, to ascertain, fix, determine and assess the total actual cash value of said property so assessable by them, of each of said corporations and companies, in said State, and to apportion the aggregate total cash value so assessed of each of them to the counties and said city of St. Louis, at its said actual total cash value, which was and is the amounts respectively as they are hereinbefore stated to have been, for the purposes of taxation. That said persons and said State board of equalization thereupon entered upon the discharge of its said duties and held sessions from time to time until the 26th day of August, 1902, when an order of adjournment *sine die* was made.

That your petitioner appeared before said persons and said State board of equalization during said sessions, and demanded of them and it that they perform said duty, but they and it utterly failed and refused to perform said duty of ascertaining fixing determining and assessing the total actual cash value of said property, or of all or any of said corporations and companies so assessable by them, but unmindful of said duty, knowingly and wilfully made pretended assessments of the same, grossly inadequate, fraudulent and not uniform upon the same class of property of said respective corporations and companies, in this, that said pretended assessments of said property of each of said railroad companies were made at one

8 fourth of said total actual cash value thereof; and of each of said street railroad companies at 29 per cent. of said total

actual cash value thereof, excepting said St. Louis and Suburban Railway Company and said St. Louis and Meramec River Railroad Company, which they assessed at 48 per cent. of said total actual cash value thereof; and of each of said bridge companies at less than one third of said total actual cash value thereof; and of each of said telegraph companies at forty-three per cent. of said total cash value thereof; and of each of said telephone companies at one-third of the total actual cash value thereof, and made no assessment, pretended or otherwise, of such property of said express companies.

That said board kept a full and fair record of all its proceedings and decisions including said pretended assessments, and caused the same to be signed officially by its said president and Secretary and filed said record in the office of the State auditor on its adjournment, on receipt of which said auditor certified the same to the county courts of the proper counties and to the municipal assembly of said city of St. Louis, as required by statute, and upon which said pretended assessments of said corporations and companies the tax levy for State, city and school purpose- for the year 1902, in said city will be made for said year on said grossly inadequate and fraudulent assessments of said property of said corporations and companies, unless this court by its writ of mandamus orders said persons and said State board of equalization to meet and assess the said property of said respective corporations at its actual cash value, as provided by the constitution and statutes of this State, all of which actions of said persons and State board of equalization it is hereby charged would be and is a gross abuse by said persons and said State board of equalization of their discretion and an evasion of their positive duty in the premises as contemplated by law, which duty remains unperformed, by means whereof the amount of taxes for the year 1902, extended against and made a lien on the said real and personal property of your petitioner and of all other tax payers of said city and State (excepting only said companies hereinbe-
9 fore named) and to be paid by him and them (said other tax payers) is and will be largely increased as aforesaid, to his great damage and injury, and to the damage and injury of said other tax payers (excepting said corporations), and whereby your petitioner will be deprived of his property without due process of law, and denied the equal protection of the law, contrary to the provisions of the first section of article fourteen of the amendments to the Constitution of the United States.

Your petitioner further states that he is remediless in the premises by or through the ordinary process or proceeding at law, and he therefore prays this honorable court to award against said Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, and Edward C. Crow, and said State Board of Equalization, a writ of mandamus, commanding them and it to forthwith meet and value and assess the total cash value of said property of each of said corporations and companies so assessable by them, from the best information obtainable by them and it and make a record thereof and file the same in the office of the auditor of said State.

WILLIAM PRESTON HILL, *Petitioner.*

William Preston Hill, the petitioner herein, being duly sworn, on his oath deposes and says, that the several matters and things in the foregoing petition stated are true in substance and in matter of fact, to the best of his knowledge information and belief.

WILLIAM PRESTON HILL.

Subscribed and sworn to before me this 26th day of September, 1902, at office in the city of St. Louis, Missouri. My commission expires June 26th, 1905.

ENRIQUE PARMER,
[SEAL.] *Notary Public, City of St. Louis, Mo.*

WILLIAM PRESTON HILL, *p. p.*,
FRANK K. RYAN,
E. P. JOHNSON,
Attorneys for Petitioner.

10 And on the same day, Honorable Waltour M. Robinson, one of the judges of the supreme court of the State of Missouri, in vacation, in chambers, granted said relator an alternative writ of mandamus, which said alternative writ of mandamus is in words and figures as follows, viz:

In the Supreme Court of Missouri, in Vacation, Court in Banc.

STATE *ex Rel.* WILLIAM PRESTON HILL, Relator,
vs.
A. M. DOCKERY ET AL., Respondents.

The State of Missouri to Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow, and The State Board of Equalization, Greeting:

Whereas, it has been represented to me, the undersigned, one of the judges of the supreme court of the State of Missouri, in vacation, by the petitioner herein, William Preston Hill, that he is a citizen of the State of Missouri and a resident of the city of St. Louis therein, and a tax payer in said city and State. That prior to and on the first day of June, 1901, he was and still is the owner of real estate and personal property situated in said city, of the actual cash value of $104,070.00, and that the same has heretofore been and still is assessed for taxation for State, city and school purposes by the board of assessors for said city of St. Louis, for the year 1902, at the said full cash value of the same, and on which said property he has heretofore paid and the same is now liable for, an annual tax in the sum of $2029.36, for the latter year.

That Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen and Edward C. Crow, are now and were at all times hereinafter mentioned, the persons composing the State board of equalization of the State of Missouri. That in pursuance of law said persons, on the 21st day of April, 1902, being the third Monday

of said month, met at the city of Jefferson, in the State
11 of Missouri, as the State board of equalization of said State, and thereupon each of them took and subscribed an oath that they would support the Constitution of the United States and of the State of Missouri, and faithfully demean themselves in office as members of the State board of equalization, and that they would to the best of their knowledge and ability faithfully and impartially assess, adjust and equalize the aggregate valuation of the various corporations liable to taxation in the State of Missouri for taxes for the year 1902. That said persons as such board of equalization of the State of Missouri thereupon organized by the election of said Alexander M. Dockery, president, and said Sam B. Cook, vice president, and said Albert O. Allen, entered upon the duties of secretary thereof, and said board of equalization thereupon entered upon the discharge of its duties as such, whereupon said secretary presented to said board of equalization a communication from the State auditor of said State, laying before said State board of equalization the returns made to his office by the president or other chief officer of the various corporations liable to taxation in the State of Missouri, and the certificates made by the county clerks relating thereto.

Your petitioner further states that on said first day of June, 1901, the following named corporations were and still are companies respectively owning and operating railroads, street railroads, bridges, telegraphs, telephones and doing express business in the city of St. Louis and State of Missouri, and each one of them then had a chief office and place of business in said city of St Louis, and then owned property, both tangible and intangible in said city and State, consisting of real and personal property and franchises, and all of which was subject to taxation in said city and State and assessable for that purpose by said State board of equalization only. That the aggregate total cash value of such property of each of said corporations and companies in said State, assessable by said State board of equalization only, was and is such as to make the amount which should have been assessed to and apportioned from each of them by said State board of equalization, to said city of St. Louis, to be of the total cash value as follows:

12 Railroad companies.

Missouri Pacific Railway Company and branches, value of said property	$1,415,477.12
Manufacturers Railway Company, value of said property	307,479.96
St. Louis, Iron Mountain & Southern Railway Company, value of said property	570,204.80
St. Louis, Kansas City & Colorado Railroad Company, value of said property	19,762.56
St. Louis, Keokuk & Northwestern Railroad Company, value of said property	965,664.00
St. Louis Merchants Bridge Terminal Railway Company, value of said property	1,727,668.76

St. Louis & San Francisco Railroad Company, value of said property	602,748.80
St. Louis Transfer Railway Company, value of said property	1,981,958.12
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Bridge companies.	
St. Louis Merchants Bridge Company, value of said property	1,800,000.00
St. Louis Bridge Company, value of said property	5,100,000.00
Telephone companies.	
Kinloch Telephone Company, value of said property	2,250,000.00
Bell Telephone Company, value of said property	2,469,404.16
13 **Telegraph companies.**	
Pacific Mutual Telegraph Company, value of said property	409,946.34
Western Union Telegraph Company, value of said property	195,179.04
Express companies.	
Adams Express Company, value of said property	4,560.
American Express Company, value of said property	2,340.
Pacific Express Company, value of said property	21,830.
Wells-Fargo Express Company, value of said property	5,052.

That upon the qualification and organization of said persons as the State board of equalization as aforesaid, it became and was their duty, and the duty of said State board of equalization, to ascertain, fix, determine and assess the total actual cash value of said property so assessable by them, of each of said corporations and com-

panies, in said State, and to apportion the aggregate total cash value so assessed of each of them to the counties and said city of St. Louis, at its said actual total cash value, which was and is the amounts respectively as they are hereinbefore stated to have been, for the purposes of taxation. That said persons and said State board of equalization thereupon entered upon the discharge of its said duties and held sessions from time to time until the 26th day of August, 1902, when an order of adjournment *sine die* was made.

That your petitioner appeared before said persons and said State board of equalization during said sessions, and demanded of them and it that they perform said duty, but they and it utterly failed and refused to perform said duty of ascertaining fixing determining and assessing the total actual cash value of said property, or of all or any of said corporations and companies so assessable by them, but unmindful of said duty, knowingly and wilfully made pretended assessments of the same, grossly inadequate, fraudulent and not uniform upon the same class of property of said respective corporations and companies, in this, that said pretended assessments of said property of each of said railroad companies was made at one fourth of said total actual cash value thereof; and of each of said street railroads at 29 per cent. of said total actual cash value
14 thereof, excepting said St. Louis and Suburban Railway Company and said St. Louis and Meramec River Railroad Company, which they assessed at 48 per cent. of said total actual cash value thereof; and of each of said bridge companies at less than one third of said total actual cash value thereof; and of each of said telegraph companies at forty three per cent. of said total cash value thereof; and of each of said telephone companies at one third of the total actual cash value thereof, and made no assessment, pretended or otherwise, of such property of said express companies.

That said board kept a full and fair record of all its proceedings and decisions including said pretended assessments, and caused the same to be signed officially by its said president and secretary and filed said record in the office of the State auditor on its adjournment, on receipt of which said auditor certified the same to the county courts of the proper counties and to the municipal assembly of said city of St. Louis, as required by statute, and upon which said pretended assessments of said corporations and companies the tax levy for State, city and school purpose for the year 1902 in said city will be made for said year on said grossly inadequate and fraudulent assessments of said property of said corporations and companies, unless this court by its writ of mandamus orders said persons and said State board of equalization to meet and assess the said property of said respective corporations at its actual cash value, as provided by the constitution and statutes of this State, all of which actions of said persons and State board of equalization it is hereby charged would be and is a gross abuse by said persons and said State board of equalization of their discretion and an evasion of their positive duty in the premises as contemplated by law, which duty remains unperformed, by means whereof the amount of taxes for the year 1902,

extended against and made a lien on the said real and personal property of your petitioner and of all other taxpayers of said city and State (excepting only said companies hereinbefore named) and to be paid by him and them (said other tax payers) is and will be largely increased as aforesaid to his great damage and injury and to the damage and injury of said other tax payers (excepting said corporations), and whereby your petitioner will be deprived of his property without due process of law, and denied the equal protection of the law, contrary to the provisions of the first section of article fourteen of the amendments to the Constitution of the United States.

Now therefore, we being willing that full and speedy justice be done in the premises, do command you and each of you, that immediately upon the receipt of this writ, and without excuse or delay, you do forthwith meet and value and assess the total cash value of said property of each of said corporations and companies so assessable by them, from the best information obtainable by them and it, and make a record thereof and file the same in the office of the auditor of said State, or that you appear and show cause before our honorable supreme court in banc on Tuesday the 14th day of Octoberm 1902, why you should not do so.

Given under my hand as one of the judges of the supreme court of the State of Missouri, at chambers, this 29th day of September, 1902.

W. M. ROBINSON,
One of the Judges of the Supreme Court of the State of Missouri.

Which said writ shows the service on the said respondents, by the return of the marshal of this court attached to said writ, in words and figures as follows, to-wit:

Marshal's Return.

I hereby certify that I served the within writ at Jefferson City in the county of Cole, State of Missouri, on the 30th day of September, 1902, by delivering a true copy of the same to each of the following named members of the State board of equalization,—Samuel B. Cook, R. P. Williams, Albert O. Allen, and Edward C. Crow, and also delivered one true copy of the within writ to Albert O. Allen, as secretary of the with-named State board of equalization, and further on the 13th day of October, 1902, delivered a true copy of the within writ to the within named, Alexander M. Dockery.

R. E. SEE,
Marshal Supreme Court of the State of Missouri.

Marshal's fee $6.00.

And afterwards, to-wit, on the 14th day of October, 1902, the following proceedings were had in said cause, viz.

STATE *ex Rel.* WM. P. HILL, Rel.,
v.
A. M. DOCKERY ET AL., Resp.

Come now the said respondents by the attorney general, and file their motion to quash the alternative writ of mandamus heretofore issued herein.

Which said motion to quash is in words and figures as follows, viz:

In the Supreme Court of Missouri, Court en Banc.

STATE *ex Rel.* WILLIAM PRESTON HILL
vs.
EDWARD C. CROW, A. M. DOCKERY, ET AL.

Now comes A. M. Dockery, governor, Sam B. Cook, secretary of state, R. P. Williams, State treasurer, Albert O. Allen, State auditor, and Edward C. Crow, attorney general, composing the State board of equalization, respondents herein, and through their attorney, move the court to quash the alternative writ of mandamus heretofore issued, for the reasons

First. That it appears on the face thereof that this honorable court has no jurisdiction of the subject matter of this proceeding.

Second. That this honorable court has no jurisdiction of the persons of the respondents in a proceeding of this character.

Third. That said writ and petition on the face thereof are
17 not sufficient in law or equity to entitle the relator to the relief asked for in said petition or to authorize the issuing of said writ of mandamus.

Fourth. For the reason that said petition and writ on their face disclose that the matters and things therein stated do not constitute any cause of action against respondents or either of them.

EDWARD C. CROW,
Attorney General, for Respondents.

And afterwards to-wit, on the 10th day of November, 1902, the further following proceedings were had in said cause, viz:

STATE OF MISSOURI at the Relation of WILLIAM PRESTON HILL, Relator,
vs.
ALEXANDER M. DOCKERY, SAM B. COOK, R. P. WILLIAMS, ALBERT O. ALLEN, EDWARD C. CROW, and The State Board of Equalization, Respondents. } Mandamus.

Now at this day, the court having fully considered and understood the motion heretofore filed by the said respondents to quash the alternative writ of mandamus issued herein on the 29th day of September, 1902, doth order that said motion be sustained. It is therefore considered and adjudged by the court that the alternative

writ of mandamus issued herein be, and the same is hereby quashed, and that the said respondents go hence without day, and recover against the said relator their costs and charges herein expended, and have therefor execution.

And afterwards to-wit, on the 10th day of December, 1902, the further following proceedings were had in said cause, viz:

18 STATE *ex Rel.* WM. P. HILL, Relator,
vs.
A. M. DOCKERY ET AL., Respondents.

Now at this day, there is presented to the Honorable Gavon D. Burgess, chief justice of the supreme court of Missouri, in chambers, a writ of error to the Supreme Court of the United States, a citation directed to said respondents, citing and admonishing them to appear at a Supreme Court of the United States on the 9th day of January, 1903; an assignment of errors and a bond in the sum of five hundred dollars; which said writ of error is allowed, said citation signed, said assignment of errors filed and said bond approved, ordered filed and made a part of the record herein.

Which said bond is in words and figures as follows, to wit:

Know all men by these presents, that we, William Preston Hill, William H. Priesmeyer and Preston M. Bruner, are held and firmly bound unto Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow and the State Board of Equalization, in the full and just sum of five hundred dollars, to be paid to the said Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow and the State Board of Equalization, their heirs, executors, administrators, or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally by these presents.

Sealed with our seals, and dated this tenth day of December, in the year of our Lord one thousand nine hundred and two.

Whereas, lately at the October term A. D. 1902, of the supreme court of the State of Missouri, in a suit depending in said court between State of Missouri at the relation of William Preston Hill, relator, plaintiff and Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow, and State Board of Equalization, respondents, defendant-, a judgment was rendered against the said State of Missouri at the relation — William
19 Preston Hill, relator, and the said State of Missouri at the relation of William Preston Hill, relator, has obtained a writ of error to the Supreme Court of the United States to said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow and State Board of Equalization, citing and admonishing them to be and appear in the Supreme Court of

the United States at the city of Washington, thirty days from and after the date of said citation.

Now the condition of the above obligation is such, that if the said State of Missouri at the relation of William Preston Hill, relator, shall prosecute said writ of error to effect, and answer all costs if it fail to make good its plea, then the above obligation to be void, else to remain in full force and virtue.

WILLIAM PRESTON HILL. [SEAL.]
W. H. PRIESMEYER. [SEAL.]
PRESTON M. BRUNER. [SEAL.]

Sealed and delivered in presence of
—— ——.

Approved by
G. D. BURGESS,
Judge Mo. Supreme Court.

STATE OF MISSOURI, } ss:
City of St. Louis, }

Preston M. Bruner being duly sworn upon his oath says, in relation to his qualifications as bondsman in the case of State of Missouri *ex rel.* William Preston Hill *vs.* A. M. Dockery and others, constituting the board of equalization of the State of Missouri, that he is the Preston M. Bruner, president of the P. M. Bruner Granitoid Company, office Oddfellows building, Saint Louis, Missouri, and that he is the owner of property situated in Sulphur Springs, Jefferson Co., Missouri above the value of fifteen hundred dollars, in excess of all exemptions allowed by law.

PRESTON M. BRUNER.

Sworn and subscribed to before me this third day of December' 1902. My commission expires Aug. 21, 1905.

20 [SEAL.] CAROLINE L. WEBER,
Notary Public, City of Saint Louis, Mo.

STATE OF MISSOURI, } ss:
City of St. Louis, }

W. H. Priesmeyer, being duly sworn upon his oath says, in relation to his qualifications as a bondsman in the case of State of Missouri *ex rel.* William Preston Hill *vs.* A. M. Dockery and others constituting the board of equalization of the State of Missouri, that he is the W. H. Priesmeyer, dealer in salt and other articles, at 1001 Carr street in the city of Saint Louis, Missouri, and that he is the owner of unincumbered real estate in the city of Saint Louis which is above the value of five thousand dollars, in excess of all exemptions allowed by law.

W. H. PRIESMEYER.

Sworn and subscribed to before me this 3rd day of December, 1902. My commission expires July 25, 1904.

H. SLIKERMAN,
[SEAL.] *Notary Public, City of Saint Louis, Mo.*

Which said assignment of errors is in words and figures as follows, viz:

In the Supreme Court of the United States, October Term, 1902.

STATE OF MISSOURI at the Relation of WILLIAM PRESTON HILL, Plaintiff in Error,
vs.
ALEXANDER M. DOCKERY, SAM B. COOK, R. P. WILLIAMS, Albert O. Allen, Edward C. Crow, and State Board of Equalization, Defendants in Error. } No. —.

21 Comes now State of Missouri at the relation of William Preston Hill, plaintiff in error, by its counsel, and respectfully represents that it feels itself to be aggrieved by the proceedings and judgment of the supreme court of the State of Missouri, in the above entitled cause, and assigns error thereto as follows:

1. The court erred in said cause in sustaining the motion to quash the alternative writ of mandamus issued therein, filed therein by defendants in error, and in quashing said alternative writ of mandamus, and in rendering judgment therein in favor of defendants in error, respondents in said cause.

2. The court erred in said cause in not overruling the motion to quash the alternative writ of mandamus issued therein, filed therein by defendants in error, respondents in said cause.

3. The court erred in said cause in rendering judgment therein in favor of the defendants in error, respondents in said cause, and denying to plaintiff in error any relief from the wrong and injury complained of in the petition for and the alternative writ of mandamus issued therein on said petition.

4. The court erred in said cause in not rendering judgment therein in favor of plaintiff in error, and in not granting to plaintiff in error relief from the wrong and injury complained of in the petition for and the alternative writ of mandamus issued therein on said petition.

STATE OF MISSOURI,
At the Relation of William Preston Hill,
By FRANK K. RYAN,
E. P. JOHNSON, *Attorneys.*

22 I, John R. Green, clerk of the supreme court of the State of Missouri, certify that the above and foregoing is a full, true and complete transcript of the record and proceedings had and made in said court in the above entitled cause, as fully and complete as the same remains on file and of record in my office.

In testimony whereof, I hereunto set my hand as clerk of the supreme court of the State of Missouri, and the seal thereof hereto affixed. Done at the city of Jefferson, this 16th day of December, 1902.

[Seal of the Supreme Court of Missouri.]

JNO. R. GREEN, *Clerk.*

Clerk's fee for transcript of record $11.00

[Endorsed:] No. —. In the Supreme Court of the United States. October term, 1902. State of Missouri at the relation of William Preston Hill, plaintiff in error, *vs.* Alexander M. Dockery, Sam B. Cook, R. P. Williams, Albert O. Allen, Edward C. Crow and State Board of Equalization, defendants in error. Frank K. Ryan, E. P. Johnson attorneys for pl'ff in error. Filed December —, 1902. —— ——, clerk.

Endorsed on cover: File No. 18,768. Missouri supreme court. Term No. 180. State of Missouri at the relation of William Preston Hill, plaintiff in error, *vs.* Alexander M. Dockery, Sam B. Cook, B. P. Williams, *et al.* Filed December 30″, 1902.